

**Introduced by Senator Oller**

February 19, 2003

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An act to amend Section 1520.5 of, and to add Section 1520.10 to, the Health and Safety Code, relating to community care facilities.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 382, as introduced, Oller. Community care facilities: notice.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care and residential facilities, including group homes, by the State Department of Social Services. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.

Existing law authorizes a juvenile court, in juvenile delinquency proceedings, to make certain orders regarding the placement of a minor who has been adjudged a ward of the court.

This bill would require an applicant for a license or special permit to operate or manage a group home that will accept as a resident any minor who is required to register as a sex offender, or has been adjudged a ward of the court in any state for committing any act that would require him or her to register as a sex offender, to provide notice, as specified, to the city or county and in which the home is located and to the local law enforcement agency, and to post a notice, as specified, on the property.

Existing law requires notice by the director or county licensing agency to a city or county, as specified, regarding the licensure of residential care facilities in order to prevent overconcentration, and authorizes a city or county to request denial of the license on the basis of overconcentration of residential care facilities.

This bill would impose certain procedures upon the director or county licensing agency to ensure that the city or county planning



authority, as appropriate, of the city or county in which the proposed group home is located has received the notice.

Because this bill would require county licensing agencies to ensure that the city or county planning authority receive the notice, as specified, and because it would expand the scope of an existing crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1520.10 is added to the Health and
- 2 Safety Code, to read:
- 3 1520.10. (a) In addition to the other requirements of this
- 4 chapter, an applicant for a license or special permit to operate or
- 5 manage a group home that will accept as a resident any minor who
- 6 is required to register as a sex offender pursuant to subdivision (d)
- 7 of Section 290 of the Penal Code, or has been adjudged a ward of
- 8 the court in any state for committing an act that would require him
- 9 or her to register as a sex offender in this state pursuant to
- 10 subdivision (d) of Section 290 of the Penal Code, shall do all of the
- 11 following within five days of applying for the license or special
- 12 permit:
- 13 (1) Notify the city or county in which the proposed group home
- 14 is to be located of the applicant's intention to open or to manage
- 15 or operate a group home that may accept juvenile sex offenders as
- 16 residents and the address of the property.



1 (2) Notify the chief of police in the city, or the sheriff of the  
2 county, in which the proposed group home is to be located of the  
3 applicant's intention to open or to manage or operate a group home  
4 that may accept juvenile sex offenders as residents, and of the  
5 address of the property.

6 (3) Place and maintain on the property one or more  
7 conspicuous printed notices, which are clearly visible from the  
8 street or sidewalk, informing the public that the applicant is  
9 applying for a license or special permit to operate a group home  
10 that may accept juvenile sex offenders as residents.

11 (b) The notice required by subdivision (a) shall specify the  
12 number and type of juvenile offenders who would be eligible to  
13 reside in the group home.

14 (c) The department shall not issue a license or special permit to  
15 an applicant described in subdivision (a) until the applicant has  
16 provided evidence satisfactory to the department that the applicant  
17 has complied with subdivisions (a) and (b).

18 (d) An applicant's failure to comply with subdivision (a) or (b)  
19 shall be grounds for the department to deny an application for a  
20 license or special permit, or to revoke a license or special permit,  
21 pursuant to Section 1550. The department may also suspend the  
22 license or special permit pending an administrative hearing  
23 pursuant to Section 1550.5.

24 (e) A person, or a city or county, may petition the superior court  
25 for a writ of mandamus to order the closure of a group home, based  
26 on proof, by a preponderance of the evidence, that the applicant  
27 failed to provide the notice required by subdivision (a) or (b).

28 SEC. 2. Section 1520.5 of the Health and Safety Code is  
29 amended to read:

30 1520.5. (a) The Legislature hereby declares it to be the policy  
31 of the state to prevent overconcentrations of residential care  
32 facilities—~~which~~ *that* impair the integrity of residential  
33 neighborhoods. Therefore, the director shall deny an application  
34 for a new residential care facility license if the director determines  
35 that the location is in a proximity to an existing residential care  
36 facility that would result in overconcentration.

37 (b) As used in this section, "overconcentration" means that if  
38 a new license is issued, there will be residential care facilities  
39 ~~which~~ *that* are separated by a distance of 300 feet or less, as  
40 measured from any point upon the outside walls of the structures

1 housing those facilities. Based on special local needs and  
2 conditions, the director may approve a separation distance of less  
3 than 300 feet with the approval of the city or county in which the  
4 proposed facility will be located.

5 (c) At least 45 days prior to approving any application for a new  
6 residential care facility, the director, or county licensing agency,  
7 shall notify, in writing, the *planning authority of the city, if the*  
8 *facility is to be located in the city, or the planning authority of the*  
9 *county, if the facility is to be located in an unincorporated area,*  
10 ~~planning authority in which the facility will be located~~, of the  
11 proposed location of the facility. *This notice shall be provided by*  
12 *registered mail, return receipt requested. The director or county*  
13 *licensing agency providing the notice shall ensure that the return*  
14 *receipt is received by the director or county licensing agency in*  
15 *order to establish that the city or county planning authority, as*  
16 *appropriate, has received the notice, and shall maintain in its files*  
17 *a copy of the return receipt. If the director or county licensing*  
18 *agency providing the notice does not receive the return receipt*  
19 *within 10 days after mailing the notice, the director or the county*  
20 *licensing agency shall employ other means to ensure that notice is*  
21 *delivered to the city or county. The application may not be*  
22 *approved until receipt of the notice by the city or county, as*  
23 *appropriate, has been documented by the director or the county*  
24 *licensing agency.*

25 (d) Any city or county may request denial of the license applied  
26 for on the basis of overconcentration of residential care facilities.

27 (e) Nothing in this section authorizes the director, on the basis  
28 of overconcentration, to refuse to grant a license upon a change of  
29 ownership of an existing residential care facility where there is no  
30 change in the location of the facility.

31 (f) Foster family homes and residential care facilities for the  
32 elderly shall not be considered in determining overconcentration  
33 of residential care facilities, and license applications for those  
34 facilities shall not be denied upon the basis of overconcentration.

35 (g) Any transitional shelter care facility as defined in paragraph  
36 (11) of subdivision (a) of Section 1502 shall not be considered in  
37 determining overconcentration of residential care facilities, and  
38 license applications for those facilities shall not be denied upon the  
39 basis of overconcentration.

1 SEC. 3. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution for  
3 certain costs that may be incurred by a local agency or school  
4 district because in that regard this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

10 However, notwithstanding Section 17610 of the Government  
11 Code, if the Commission on State Mandates determines that this  
12 act contains other costs mandated by the state, reimbursement to  
13 local agencies and school districts for those costs shall be made  
14 pursuant to Part 7 (commencing with Section 17500) of Division  
15 4 of Title 2 of the Government Code. If the statewide cost of the  
16 claim for reimbursement does not exceed one million dollars  
17 (\$1,000,000), reimbursement shall be made from the State  
18 Mandates Claims Fund.

